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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of

MARTHA J. HUBER, et al.,

For Construction Permit for a  
New FM Station on Channel 234A  
In New Albany, Indiana

)  
)  
) MM Docket No. 93-51  
)  
)  
)

To: The Honorable Richard L. Sippel  
Administrative Law Judge

MOTION TO ENLARGE ISSUES AGAINST  
MARTHA J. HUBER

Staton Communications, Inc. ("Staton"), by its counsel  
and pursuant to Section 1.229(b)(3)<sup>1/</sup> of the Commission's Rules,  
hereby moves that the following issues be specified against Martha  
J. Huber ("Huber"):

To determine whether Martha J. Huber made  
misrepresentations or lacked candor when she  
certified in her original application that she  
was financially qualified; and

To determine, based upon the evidence adduced  
pursuant to the foregoing issue, whether  
Martha J. Huber possesses the qualifications  
to hold an FCC license.

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<sup>1/</sup> The instant motion is timely filed pursuant to Section  
1.229(b)(3) of the Commission's rules. Newly discovered evidence,  
specifically, documents produced pursuant to the financial issues  
added against Huber (Order, FCC 93 M-314), were received from Huber  
by Staton on July 7, 1993.

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Upper Creek drainage is more indicative of an alluvial fan system.

Attachment 2 hereto. Moreover, Huber's October 1991 bank letter failed to specify an interest rate, merely referencing an interest rate which would be set "at a percentage increment" above prime, and was equally vague as to the term of the loan. The clear implication which may be drawn from these facts is that the bank was reluctant to commit to a loan for Huber's venture. Indeed, these very factors weighed considerably against Huber's financial qualifications, and have resulted in the addition of a financial issue against Huber. See Martha J. Huber, FCC 93M-314 (released June 1, 1993).

At the time the judge added the financial issue against Huber, he declined to designate a false certification issue because the facts were insufficient to raise a "substantial question of an intended misrepresentation." However, newly discovered evidence now reinforces the clear implication that Huber was not, in fact, financially qualified at the time of certification, and strongly suggests that Huber falsely certified knowing that the bank's loan commitment was unreliable. In response to document production pursuant to the judge's order, Huber could not produce any personal financial statements upon which the bank may have relied in issuing the October 1991 bank letter. Indeed, the October 1991 bank letter references no review of financial statements, credit worthiness or business plans, nor does it acknowledge a familiarity with Ms. Huber's financial condition as a result of an on-going banking relationship. But even more revealing is the fact that Ms. Huber

completed a Citizen's Fidelity Bank "Personal Financial Statement" on November 11, 1991, less than two weeks after the bank issued the letter upon which Huber relied. A copy of Huber's Personal Financial Statement is included herewith at Attachment 3. Thus, it was not until Huber responded to the judge's order which added the

sufficient reasonable basis upon which to certify her financial qualifications.

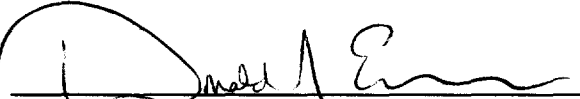
In response to scrutiny by competing applicants, Huber

has filed a supplemental letter from the bank which was referenced

Respectfully submitted,

**STATON COMMUNICATIONS, INC.**

By:

  
DONALD J. EVANS

  
MARIANNE H. LEPERA  
Its Counsel

McFadden, Evans & Sill  
1627 Eye Street, N.W.  
Suite 810  
Washington, D.C. 20006  
(202) 293-0700

July 22, 1993

**Attachment 1**





**Attachment 2**

# DRAFT BANK LETTER

Martha J. Huber  
1927 Plum Hill Way  
Flyds Knobs, Indiana 47119

Dear Ms. Huber:

It is our understanding you are filing an application with the Federal Communications Commission (FCC) for a construction permit for a new FM broadcast station in New Albany, IN. This letter is to inform you that in the event you are awarded the authorization to construct the station and subject to the provisions outlined below, this bank is prepared to loan up to \$350,000 for the purpose of constructing and operating the station.

The loan would be for a period of five years with the interest at \_\_\_\_\_ percent above the bank's prime rate at the time. No principal payments would be required for the first year with equal quarterly payments thereafter. The collateral for the loan would be all the tangible assets of the station.

We understand that at this stage of the process the FCC does not require a contractually binding commitment, and this letter is not such a loan commitment. We do intend by this letter to assure you and the FCC of our interest in assisting your agency to plan, build, and operate the

**Attachment 3**

TO: Citizens Fidelity Bank &amp; Trust Company

Indiana

P.O. Box 1248  
New Albany, IN 47150-1248Please do not leave any  
questions unanswered.☐ Dr.  
☒ Mr.  
☒ Mrs.  
☐ Ms.

## PERSONAL FINANCIAL STATEMENT

(PLEASE PRINT)

MARTHA JUDITH HUBER

1927 PLUM HILL WAY

Full Name

Home Address

304-44-4348

Social Security Number

Business Address

For the purpose of procuring and maintaining credit from to time in any form whatsoever with Citizens Fidelity Bank and Trust Company Indiana ("Bank"), for claims and demands against the undersigned, the undersigned submits the following as being a true and accurate statement of his, her or their financial condition on the following date, and agrees that if any change occurs that materially reduces the means or ability of the undersigned to pay all claims or demands against me, the undersigned will immediately and without delay notify the said Bank, and unless the Bank is so notified it may continue to rely upon the statement herein given as a true and accurate statement of the financial condition of the undersigned as of the close of business.

(Month) NOVEMBER (Day) 11th 19 91

ASSETS				LIABILITIES			
Cash on hand and in Banks	5,000	00		Notes payable to Banks			
U.S. Gov. Securities - see Schedule				Secured			
Listed Securities - see schedule				Unsecured			
Unlisted Securities - see schedule				Notes payable to relatives			
Cash Values - Life Insurance				Notes payable to others			
Accounts and Notes Receivable Due from relatives and friends				Accounts and bills due			
Accounts and Notes Receivable Due from others - good				Accrued taxes and interest			
Accounts and Notes Receivable Doubtful				Other unpaid taxes			
Real Estate owned - see schedule	1,950,000	00		Mortgages payable on Real Estate - see schedule	1,000,000	00	
Real Estate Mortgages owned				Chattel Mortgages and other Liens payable			
Automobiles				Other debts - itemize			
Personal property	65,000	00					
Other assets - itemize							
IRA	14,000	00					

**SCHEDULE OF U. S. GOVERNMENTS. STOCKS AND BONDS OWNED**

**Attachment 4**

May 5, 1993

**PNCBANK**

**Martha J. Huber  
1927 Plum Hill Way  
Floyds Knobs, Indiana 47119**

**Dear Ms. Huber:**

**This letter will amplify upon my letter of October 29, 1991, in which our bank provided you with assurance of our intention to loan you up to \$350,000 to construct and to operate your proposed FM broadcast station in New Albany, Indiana.**

**First, this will confirm that you have been a customer of this bank for over twenty five years, and this bank was well aware of your financial condition in October 1991 and remains familiar with your financial condition today.**

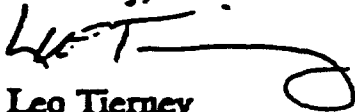
**The purpose of my October 29, 1991 letter was to provide you with assurance of our intention to make the requested loan at the time your application is granted. As stated in the letter, the letter was not a contractually binding commitment, and no such commitment was made. However, based upon the bank's knowledge of your financial condition, we provided you with assurance that financing would be available, and you still have that assurance.**

**As noted in the letter, the interest on the loan would be one percent (a percent increment) above the bank's prime rate, subject to change from time to time. The bank's present prime rate is 6.00% and in October 1991, the bank's prime rate was 8.00%.**

**When I wrote that the loan "would be for a period as long as two to five years" I meant that a loan period of a minimum of two years and a maximum of five years would be acceptable to the bank. The exact term of the loan will be decided when the loan is made.**

**In short, the letter I wrote on October 29, 1991 remains valid and in effect, subject to the conditions contained in that letter.**

**Sincerely,**



**Leo Tierney  
Senior Vice President  
PNC Bank, Indiana, Inc.  
(Formerly Citizens Fidelity  
Bank, Indiana)**

CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law firm of  
McFadden Evans & Sill do hereby certify that true and correct